

**RESPONSIVENESS SUMMARY  
CONCERNING EPA'S AUGUST 30, 2001  
PUBLIC NOTICE PROPOSING NUMEROUS TMDLS  
FOR WATERS IN THE STATE OF GEORGIA**

**Fecal Coliform TMDL** - February 2002 - finalization of Fecal Coliform TMDLs for:

**Altamaha River Basin:**

Doctors Creek, Goose Creek

**Ocmulgee River Basin - Upper Ocmulgee River:**

Alcovy River, Almand Branch, Beaver Ruin Creek, Big Cotton Indian Creek, Big Flat Creek, Big Haynes Creek (Brushy Creek to Little Panther Creek), Big Haynes Creek (Little Haynes Creek to Yellow River), Big Haynes Creek (Headwaters to Brushy Creek), Big Sandy Creek, Bromolow Creek, Cabin Creek, Camp Creek, Cedar Creek, Falling Creek, Hopkins Creek, Jacks Creek, Jackson Creek, Little Haynes Creek, Little Stone Mountain Creek, Little Suwannee Creek, No Business Creek, Ocmulgee River (Beaverdam Creek to Walnut Creek), Ocmulgee River (Tobesofkee Creek to Echeconnee Creek), Pew Creek, Rocky Creek, Shetley Creek, Shoal Creek, Snapping Shoals Creek, South River (Atlanta to Flakes Mill Road), South River (Flakes Mill Road to Pole Bridge Creek), South River (Snapping Shoals to Jackson Lake), Stone Mountain Creek, Sugar Creek, Sweetwater Creek, Swift Creek, Tobesofkee Creek (Cole Creek to Todd Creek), Tobesofkee Creek (Lake Tobesofkee to Rocky Creek), Town Branch, Turkey Creek, Tussahaw Creek, Walnut Creek, Watson Creek, Wise Creek, Yellow River (Sweetwater Creek to Hwy 124), Yellow Water Creek

**Ocmulgee River Basin - Lower/Little Ocmulgee River Basin:**

Alligator Creek, Bay Creek, Big Indian Creek, House Creek, Ocmulgee River (Sandy Run Creek to Big Indian Creek), Turnpike Creek

**Oconee River Basin:**

Apalachee River (Marburg Creek to Lake Oconee), Apalachee River (Williamson Creek to Marburg Creek), Beaverdam Creek, Big Cedar Creek, Big Sandy Creek, Big Indian Creek, Carr Creek, Cedar Creek (Headwaters to Oconee River), Cedar Creek (Headwaters to Winder Reservoir), East Fork Trail Creek, Little River (Gladys Creek to Lake Sinclair), Little River (Shoal Creek to Gap Creek), Little River (Social Circle to Nelson Creek), Little Sugar Creek, Marburg Creek, Middle Oconee River (Big Bear Creek to McNutt Creek), Middle Oconee River (Mulberry River to Big Bear Creek), Mulberry River, North Oconee River (Bordens Creek to Curry Creek), North Oconee River (Chandler Creek to Bordens Creek), North Oconee River (Jackson County to Sandy Creek), North Oconee River (Sandy Creek to Trail Creek), North Oconee River (Trail Creek to Oconee River), Oconee River, (Barnett Shoals to Lake Oconee), Oconee River (Confluence of North & Middle Oconee river), Oconee River (Long Branch to

Turkey Creek), Richland Creek, Rooty Creek, Tanyard Creek, Town Creek, Turkey Creek (Horse Branch to Rocky Creek), Turkey Creek (Rocky Creek to Oconee River)

Public Participation Activity Conducted:

On August 30, 2001, EPA Region 4 published an abbreviated public notice in the legal advertising section of the Atlanta Journal Constitution. Additionally, Region 4 mailed copies of a detailed public notice to the Georgia Environmental Protection Division (EPD), the Plaintiffs in the Georgia total maximum daily load (TMDL) lawsuit against EPA (Sierra Club et al. v. John Hankinson et al., Civil Action 1:94-cv-2501-MHS), and persons, identified as potentially interested parties, on a mailing list maintained by Region 4. This public notice requested comments from the public on EPA's proposed TMDLs for a significant number of water quality limited segments in the State of Georgia.

Matters on Which Public Was Consulted:

As a result of settlement negotiations in the Georgia TMDL lawsuit against EPA (Sierra Club et al. v. John Hankinson et al., Civil Action 1:94-cv-2501-MHS), EPA had the following commitment:

“If Georgia fails to propose for public comment by June 30, 2001, TMDLs for each waterbody identified in Georgia’s 2000 Section 303(d) list, whether such Section 303(d) list is prepared by Georgia or by EPA, and that is located in the Oconee/Ocmulgee/ Altamaha Basins, then EPA shall propose such TMDLs by August 30, 2001. In the event EPA proposes such TMDLs, EPA will establish TMDLs following public notice and comment within a reasonable time, and, where significant comment is not received, expects to establish TMDLs by February 28, 2002, unless Georgia submits and EPA approves such TMDLs prior to EPA establishing such TMDLs.”

The public was consulted on proposed TMDLs for the water quality limited segments in the Oconee, Ocmulgee, and Altamaha Basins of the State of Georgia. The proposed TMDLs are identified in the attached list. EPA Region 4 had received and evaluated water quality-related data and information about these waters and pollutants and had prepared documents supporting the preliminary determinations of these evaluations.

Summary of Public's Comments:

**The following persons provided written comments or written request for copies of the proposed TMDL during the public comment period:**

- 1      Alan Hallum, Chief  
Georgia Department of Natural Resources  
Environmental Protection Division  
Water Protection Branch  
4220 International Parkway  
Suite 101  
Atlanta, Georgia 30354
  
2.     Roy Rabun  
City of Griffin  
Post Office Box T  
231 East Solomon Street  
Griffin, Georgia 30224
  
3.     Kesler T. Roberts, Staff Attorney  
Georgia Legal Watch  
264 North Jackson Street  
Athens, Georgia 30601  
October 30, 2001

### **COMMENT**

The TMDL says that there are 37 permitted point sources in the drainage basin for the 303(d) listed stream segments. Not all of the point sources were included. Many of the small privately owned facilities were not listed (like mobile home parks). Also, not all industrial facilities are listed.

**Alan Hallum, Chief, Georgia Department of Natural Resources, Environmental Protection Division, Water Protection Branch, 4220 International Parkway, Suite 101, Atlanta, Georgia 30354**

### **RESPONSE**

The permitted point sources were provided to EPA by EPD. This list included both municipal and industrial facilities. Only those facilities without permitted flow, inactive facilities, or those utilizing land application systems (LAS) as a means of discharging processed wastewater were not included in the models.

### **COMMENT**

Many of the facilities listed actually discharge to the stream segments that are not listed on the 303(d) list for fecal coliform and some actually discharge to stream segments that are listed as ones that support their designated use. What was EPA's rationale for including the facilities that it did in the TMDL?

**Alan Hallum, Chief, Georgia Department of Natural Resources, Environmental Protection Division, Water Protection Branch, 4220 International Parkway, Suite 101, Atlanta, Georgia 30354**

### **RESPONSE**

EPD provided EPA with a list of NPDES facilities in the various watersheds. Often, a facility may not be located on the 303(d) listed stream but it is located in the watershed that drains to the impaired stream.

### **COMMENT**

The commenter questions the validity of the model with respect to flow for the smaller watersheds. The calibration of the Upper Ocmulgee watershed was conducted on one gage station of 184 square miles. It was validated on two stations of 192 square miles and 2,240 square miles, respectively. Thirty-nine of the 47 TMDLs are for streams with less than 100 square mile drainages. If the TMDLs are based on an in-stream standard of 200 per 100 ml, then some type of in-stream flow rate or volume, particularly for the smaller watersheds, should be included in the TMDL in order to relate it to real conditions.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

### **RESPONSE**

The hydrology calibration was conducted at continuous USGS gage sites. Continuous flow gages are not located in the smaller watersheds. One of the assumptions of the modeling approach is that hydrologic parameters such as infiltration, evapotranspiration, ground water recession, are similar in an ecoregion. The hydrology calibrations were conducted on watersheds in the same ecoregions as the TMDL streams.

### **COMMENT**

The commenter indicates that based on calculations, it is possible that the Cabin Creek TMDL of 4.3E11 counts per 30 days is an unreasonably low and unattainable goal.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

### **RESPONSE**

The TMDL includes both the Griffin Cabin Creek WPCP and the Springs Industry Plant discharging at the permit limit flow (2.325 and 1.55 cfs for Griffin Cabin Creek and Springs Ind.) and 200 counts per 100 ml concentration of Fecal Coliform.

The TMDL will be raised to 6.05 E11 counts per 30 days with revisions to the model F-table. This small change doesn't address the commenter's concern however. The average simulated flow in the 30 day period on which the TMDL is based is 3.8 cfs (this is basically the combined discharge from the NPDES facilities).  $3.8 \text{ cfs} * 200 \text{ counts per 100 ml} \Rightarrow 5.6\text{E}11 \text{ counts per 30 days}$  which is approximately 6 E11 with small contributions from the watershed. In summary the TMDL is based on the worst-case condition simulated in the 10 year period from 1990 through 1999. It is not based on a flow statistic such as a 80% or 50% or 20% exceedance frequency. The TMDL of 4.31E11 or 6E11 should be protective of the stream while allowing

the permitted dischargers to operate.

#### **COMMENT**

The commenter asks why does the model use permit limits instead of actual monitoring data (which is available) to calculate the total waste load allocation.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

#### **RESPONSE**

The WLA is based on the states numeric water quality standard and represents the maximum allowable concentration a permitted facility can discharge. This concentration times the facilities design capacity determines the allowable fecal load a facility can discharge. The actual monitoring data is used to determine whether or not the facility is actually complying with the TMDL, usually through permit conditions.

#### **COMMENT**

The commenter asks what is the natural background (i.e. reference) concentration of fecal coliform in Cabin Creek.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

#### **RESPONSE**

Background monitoring data are not available on the stream. Based on the available monitoring data and the limitations of the methodology used to analyze the samples, 20 counts/100mL could be considered background.

#### **COMMENT**

The commenter asks how does the TMDL account for future growth.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

#### **RESPONSE**

The TMDLs for fecal coliform in the Upper Ocmulgee and Altamaha River Basins do allow for future growth. If a proposed point source would discharge below the applicable water quality criterion, and they could demonstrate that they will not cause or contribute to a water quality problem, the new point sources may be allowed.

#### **COMMENT**

The commenter indicates the implementation plan in this document includes mention of many of the factors that should be considered, however, it does not include a time line for when actions should be taken, who should take them, what regulatory mechanisms will be used; who will be responsible for carrying out a long-term monitoring plan to judge the success of the TMDL, and pollutant-specific milestones to track improvement in water quality.

**Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224**

**RESPONSE**

The final fecal coliform TMDL includes a more detailed implementation plan prepared by Georgia EPD. This implementation plan can be found in Section 11 of the Altamaha and Upper Ocmulgee River Basin TMDL.

**COMMENT**

The commenter indicates based on our calculations, it is possible that the Cabin Creek TMDL of 4.31E11 counts per 30 days is an unreasonably low and unattainable goal. We estimated a range of average volumetric grab measurements required for meeting the Cabin Creek fecal TMDL. Using gage data from the Ocmulgee River U.S.G.S. station in Macon (02213000, 2,240 square miles, used for validating the Upper Ocmulgee run-off model) and converting it to flow estimates for the 33.83 square mile Cabin Creek watershed, we have rough estimates of 9.4, 14.3, and 25.9 cubic feet per second for the 80%, 50%, and 20% exceedances, respectively. Taking the TMDL for Cabin Creek of 4.31E11 counts per 30 days and reducing it to 1.66E5 counts per second, gives us a potential count to be compared volumetrically to the Cabin Creek flows. Converting the flows to ml/100 ml and dividing the counts per second by this amount results in potential average volumetric grab measurements required of 62, 41, and 23 counts per 100 ml for each of the exceedance flows, respectively. These measurements would be almost impossible to attain particularly in a watershed that has a combination of urban, agricultural, and natural land uses contributing to the run-off.

Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224

**RESPONSE**

The TMDL will be raised to 6.05 E11 counts per 30 days with revisions to the model F-table. This 6.05 E11 counts per 30 days is based on the applicable state water quality criterion of 200 counts/100 mL. Ultimately, the discharger will have to meet end-of-pipe limits of 200 counts/100 mL (May - October) and 1000 counts/100 mL (November - April).

**COMMENT**

The commenter indicates the implication is maintenance of the TMDL in this watershed would require instream standards substantially below that required currently by EPD. These standards are already considered too stringent due to the almost impossible task of attaining them. This TMDL would place an additional and unreasonable reduction of the standard that no amount of BMP implementation could hope to achieve. Are we correct that individual grab measurements would have to reflect such a low average count in order to measure attainment of the TMDL?

Roy Rabun, City of Griffin, Post Office Box T, 231 East Solomon Street, Griffin, Georgia 30224

**RESPONSE**

See Response Above.

**COMMENT**

The commenter indicates the fecal coliform TMDLs fail to consider actual uses of the waterbodies along the designated uses. The Altamaha segments TMDL classifies the waters for the fishing use criteria, but ignores the Clean Water Act's mandate that waters be protected for classified and actual uses.

**Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001**

### **RESPONSE**

EPA is required to propose TMDLs for each waterbody identified in Georgia's 2000 Section 303(d) list. The Altamaha segments addressed by these TMDLs are included on that list based on an impairment of the fishing use. EPA has developed TMDLs addressing the impairment of that use. In any event, the fecal coliform criteria which addresses the designated use of fishing and the designated use of recreation (including swimming) are the same during the recreational season. The recreational season as identified in Georgia's Rules and Regulation for Water Quality Control is May through October. Therefore, the TMDL would be the same for the waterbody whether it was developed for the designated use of fishing or recreation.

### **COMMENT**

The commenter indicates targeting the mean criterion for fecal coliform is a faulty method for protecting the waters. On page 6 of the Upper Ocmulgee River Basin TMDL, EPA states, "By meeting the geometric mean standard compliance with the instantaneous standard is usually obtained." What does "usually" mean? How often is the geometric mean standard insufficient? Does this wavering faith in the standard justify an additional MOS for this model? A simple example shows that the mean criterion does not cover the maximum as well. The geometric mean of four samples with one at 4050 and three at 50 (counts/100 ml) yields a value of 150. Thus, meeting the mean does not meet the maximum.

**Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001**

### **RESPONSE**

The critical time period for the Upper Ocmulgee River Basin fecal TMDL is May through October. During this time period, the State of Georgia does not have an instantaneous water quality criterion for fecal coliform. Therefore, an instantaneous fecal coliform criterion is not applicable to this TMDL. The Upper Ocmulgee Rive Basin fecal TMDL has been modified to reflect only the geometric mean standard.

This TMDL uses the geometric mean fecal coliform criterion as identified in the State of Georgia Rules and Regulations. Questions regarding the adequacy of the geometric mean criterion is a water quality standards issue rather than a TMDL issue. The example provided above only applies during the winter time when instantaneous criterion is applicable. All questions regarding the fecal coliform criterion should be raised in the

triennial review of the State water quality standards.

### **COMMENT**

The commenter indicates EPA does not provide enough information about methodology. There is no information about sampling, lab methods, and QA/QC for fecal in the Altamaha segments. Fecal sampling is often compromised by exceedance of holding times, which is 6 hours from sampling to set up (see EPA standards published in the Federal Register). There should be documentation about this in the presentation of data at the end of the TMDL.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

EPD provided EPA with the water quality samples used to list the streams. The data did not contain any qualifiers to indicate the data were compromised. The chain-of-custody forms were not available with the data and could not be included in the TMDLs.

### **COMMENT**

The commenter indicates in the face of real data regarding spills from treatment plants and other excursions, EPA should recognize the need for a MOS right at the end of each pipe. The NPDES permit limits should not be exactly at the maximum counts/ml possible for the preservation of water quality. There should be at least 50 counts/100 ml MOS in each permit to take into account fluctuations in the waters' assimilative capabilities and the reality of occasional violations of those permit limits by the permit holders.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

Because spills are an enforcement problem rather than a TMDL issue, a margin of safety cannot prevent spills from occurring. Thus EPA contends that those facilities which discharge at or below the permit limits do not cause or contribute to impairment of the stream.

### **COMMENT**

The commenter indicates one specifically egregious example of an inadequate margin of safety is in Upper Ocmulgee River Basin TMDL. Why is the 10% MOS only applicable to the load allocations? Considering the frequency of exceedances by POTWs and other permitted sources, there should also be at least a 10% MOS for the wasteload allocations, and probably more. Why were the loadings for forest and wetlands considered to be background in the Upper Ocmulgee River Basin? Couldn't hunting camps, animal waste, and wetlands dredging and filling, among other things, be contributing to nonpoint source runoff and the fecal counts in these waters? This glaring omission more than wipes out the already inadequate margin of safety.



Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

The MOS is applied to the LA component because it is the largest contributor of fecal coliform loading. This loading is about 1 to 2 orders of magnitude greater than the WLA. Applying a MOS to the WLA component would result in an insignificant change to the overall TMDL value. In addition, EPD did not provide any indication that POTWs or other permitted sources were in violation of their NPDES permits. Therefore, it is unreasonable to apply a MOS to a WLA. In addition, an explicit MOS was included in the TMDL as the simulated peak geometric mean concentration during the critical period was reduced to less than the applicable water quality criterion. As an example, in the Yellow River TMDL, the simulated peak fecal coliform concentration for the allocation was reduced to about 140 counts/100 mL, or 60 counts below the criterion of 200 counts/100 mL. This represented an MOS of about 30%.

Fecal coliform from forest and wetland areas were considered background loads as it would be difficult to implement reductions to these lands. Hunting camps could be a potential problem but the numbers of camps in any particular watershed are not known. The MRLC land use data used to delineate the various land covers in the subwatersheds were not of high resolutions to separate hunting camps.

### **COMMENT**

The commenter indicates EPA fails to consider a wealth of information that seems readily available and relevant to the development of these TMDL documents. For example, why are the 1999 Discharge Monitoring Reports not available from nine of the NPDES facilities in the Upper Ocmulgee? What has EPA done to ensure the EPD collects and reports these data? In Figure 3 in the Upper Ocmulgee TMDL is helpful in showing some correlation between cities and towns and impaired waters, but it would be more telling to include the locations of facilities with NPDES permits, areas of high septic tank use, CAFOs, etc. in order to try to pinpoint where the problems may be coming from.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

DMR reports were not provided by EPD. The model only simulated fecal coliform concentrations through 1998, as this was the limit of meteorological data. EPA's enforcement program is responsible for ensuring that the State submits DMRs and that discharges are within permit limits. The location of CAFOs and area of high septic tank use are not readily available. Only with high resolution land use coverage could this be easily determined. These type of data

were not available.

### **COMMENT**

The commenter indicates (a) pages 4 and 9 of the Altamaha TMDL state that there are no permitted point sources, but page 16 reveals Table 5 listing 11 permitted dischargers. This is further confused by the statement that there are “no data available” for many dischargers, and the subsequent determination of current fecal loadings based on DMR data. The document mixes up counts per hour with monthly averages instead of giving geometric means. Some of the fecal dischargers also have no limits, which is unacceptable. This entire document mixes units and contains conflicting information and must be reviewed and remedied.

**Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001**

### **RESPONSE**

Table 5 does not contain any facilities in the Doctors Creek or Goose Creek watersheds. The table will be deleted from the report since it does not pertain to the reported TMDLs. Table 5 is a summary of the facilities in the whole Altamaha River Basin and Georgia EPD wrote the TMDL reports for the watersheds containing these discharge facilities.

### **COMMENT**

(b) Who are these “known future facility dischargers” mentioned on page 13 of the Upper Ocmulgee River Basin TMDL? Were these included in the model, or does EPA assume that any additional facilities discharging at the limit of 200 counts/100 ml are always allowable? If this is the case, we register disagreement and complaint.

**Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001**

### **RESPONSE**

Future facilities in the Ocmulgee River Basins could include municipalities that intend to expand their waste water treatment plants and as a result could potentially increase the loading to the stream. As stated in an earlier response, if a proposed point source discharges below the applicable water quality criterion, and they could demonstrate that they will not cause or contribute to a water quality problem, the new point sources may be allowed.

### **COMMENT**

(c) CSOs are mentioned in the load allocation section of the Upper Ocmulgee TMDL, but EPA determined that CSOs must meet water quality criteria at the end of the pipe. Are CSOs point or nonpoint sources, then? Why is neither EPA nor EPD imposing the water quality standard on CSOs in

a permit? Shouldn't CSOs be included in the wasteload allocation as discrete point sources? EPA explains that the wasteload allocation does not mention CSOs because CSOs do not overflow in critical conditions. Does this admit that CSO overflow would be included in a wasteload allocation if it were to occur during critical conditions? This logic fails because in regular conditions where the CSOs have no limit for fecal output, even if all of the other facilities are within their limits, the CSOs' contribution could result in non-attainment for the stream. Additionally, during high flow conditions the CSOs do generally overflow and if they have no limits for fecal, high flow times must be considered critical conditions. This TMDL does not adequately consider seasonal variations and the impacts upon CSOs.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

CSOs are considered point sources. The waste load allocation (WLA) component for those TMDLs (e.g., South River) impacted by CSOs has been modified to include this discharge. The South River TMDLs have been revised to consider a wet weather critical period that includes discharges from the CSOs. This approach is consistent with the one used by EPD to develop the TMDL for Intrinishment Creek.

### **COMMENT**

(d) The assumption in the Upper Ocmulgee TMDL that facilities which do not have fecal coliform permit limits are discharging at 200 counts/100 ml is unfounded. Which facilities lack these limits in their permits? Why? On page 15, EPA determines that these facilities will be given a fecal coliform limit of 200 counts/100 ml in the next reissuance process. When will this happen? Why not do it now?

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601, October 30, 2001

### **RESPONSE**

This statement above was in reference to future facilities. The TMDL document has been revised. All existing facilities in the Upper Ocmulgee Basin currently have NPDES permit limits for fecal coliform. The Performance Partnership Agreement between EPA and EPD establishes a process by which WLAs will be incorporated into NPDES permits. NPDES permitting requirements and enforcement issues fall outside of the authority of §303(d) of the Clean Water Act and, therefore, are not addressed by the TMDL.

### **COMMENT**

EPA's TMDL documents do not facilitate the next step of the TMDL process: implementation. EPA should provide clear guidance for local governments which are currently faced with the tasks of implementation at the RDC level.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601,  
October 30, 2001

### **RESPONSE**

The final fecal coliform TMDL includes a more detailed implementation plan prepared be found in Section 11 of the Altamaha and Upper Ocmulgee River Basin TMDL.

### **COMMENT**

On page 10 of the Altamaha document, EPA states that “point source facilities will be required to be in compliance with the conditions of their NPDES permit at all times.” How will this be achieved after the TMDL if it was not being achieved before the TMDL? The document also notes that fecal dischargers who do not currently have limits will be given limits. When will this occur and through what mechanism?

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601,  
October 30, 2001

### **RESPONSE**

EPD did not provide any indication that POTWs or other permitted sources were in violation of their NPDES permits. After the TMDL is implemented, compliance with the TMDL fall outside of the authority of §303(d) of the Clean Water Act. Questions about NPDES Enforcement should be directed to Georgia EPD Permitting, Compliance, & Enforcement Program. The document incorrectly implies that existing charges do not have effluent limits for fecal coliform. The TMDL document has been revised to correct this mistake. The Performance Partnership Agreement between EPA and EPD establishes a process by which WLAs will be incorporated into NPDES permits. NPDES permitting requirements and enforcement issues fall outside of the authority of §303(d) of the Clean Water Act and, therefore, are not addressed by the TMDL.

### **COMMENT**

The calibration of water quality models is flawed because EPA excludes accidental spill-type data from the water quality model. On page 12 of the Upper Ocmulgee River Basin TMDL it looks like the calibrated model is used to determine existing loads, in which case the accidental spills from the POTWs should be included as real events. Next, EPA draws the conclusion that since the model assumes that NPDES facilities comply with their permits; NPDES facilities do not contribute to the problem. This “conclusion from assumption” game is illogical.

Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601,  
October 30, 2001

### **RESPONSE**

The WLA does not include accidental spill. Such data is considered in the water quality analyses and models to explain such observations. Accidental spills are considered accidental loads that are reduced through NPDES enforcement procedures, and thus no load is allocated to this in the TMDL.

#### **COMMENT**

The TMDL chart is confusing. The TMDL chart is confusing; p.14 of Legal Watch comments.  
Kesler T. Roberts, Staff Attorney, Georgia Legal Watch, 264 North Jackson Street, Athens, Georgia 30601,  
October 30, 2001

#### **RESPONSE**

These TMDLs are expressed in counts per 30 days as a result of the standard used to evaluate the water quality. The standard is a 30-day geometric mean of 200 counts per 100 ml. A model simulation was run and daily results were evaluated to determine the 30-day geometric means for the simulated period of time. The critical 30-day period was identified and the loads contributing to the stream during this critical 30 day period were summed. It is necessary to use the 30-day load since the neither the average daily load or the maximum daily load would result in a suitable TMDL. For example, the maximum daily load multiplied by 30 days would likely far exceed the 30-day geometric mean and result in a TMDL that is too high and not protective of the stream. Similarly, the average daily load would likely be much less than the maximum daily load encountered in this 30 days and a TMDL based on the daily average load may be too stringent to be achieved.